

PT 95-20

Tax Type: PROPERTY TAX

Issue: Charitable Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
ADMINISTRATIVE HEARINGS DIVISION
SPRINGFIELD, ILLINOIS

SOUTHEAST GRUNDY COUNTY)
SENIOR CITIZENS CENTER)
Applicant) Docket # 93-32-166
) Parcel Index # 12-04-453-015
)
) Barbara S. Rowe
THE DEPARTMENT OF REVENUE) Administrative Law Judge
OF THE STATE OF ILLINOIS)
)

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Donald R. Dirks, Jr., Attorney for Applicant

SYNOPSIS: The Grundy County Board of Review filed an Application for Property Tax Exemption with the Illinois Department of Revenue (the Department) for Southeast Grundy County Senior Citizens Center (the applicant). The Department denied the application finding that the property was not in exempt ownership or use. The applicant filed a protest to the findings of the Department and requested a hearing in the matter. A hearing was held pursuant to the request and it is recommended that the Director of the Department find that the parcel herein question was in exempt ownership and use for the 1993 assessment year.

FINDINGS OF FACT:

1. The Department's position in this matter, namely that Grundy County parcel index number 12-04-453-015 was not in exempt ownership and use for the 1993 assessment year, was established by admission into evidence of Department's Exhibits 1 through 6.

2. On August 30, 1993, the Grundy County Board of Review recommended a full-year exemption for the parcel herein question. The Department

received the Re-Application for Property Tax Exemption to Board of Review - Statement of Facts on September 27, 1993 (Department's Group Exhibit 1).

3. On May 19, 1994, the Department denied the requested application stating:

THE PRIMARY USE OF THE PROPERTY IS NOT CHARITABLE.

THE PROPERTY IS NOT IN EXEMPT OWNERSHIP.

THE PROPERTY IS NOT IN EXEMPT USE.

PRIMARY USE OF THE PROPERTY IS FOR CIVIC AND SOCIAL FUNCTIONS (Department's Exhibit 2).

4. On June 2, 1994, the Department received a request for reconsideration of the denial of the property tax exemption (Department's Exhibit 3).

5. On September 28, 1994, the Department issued a Notice of Hearing for a hearing to take place December 1, 1994 in Chicago, Illinois (Department's Exhibit 4).

6. The applicant acquired the property herein issue by a warranty deed dated March 28, 1978 (Department's Group Exhibit 1 at 4).

7. Applicant is exempt from payment of federal income tax pursuant to a 501(c)(3) designation by the Internal Revenue Service (Department's Group Exhibit 1 at 15).

8. Applicant was incorporated under the Illinois "General Not for Profit Corporation Act" on June 13, 1975 for the purpose of "Sociability" (Department's Group Exhibit 1 at 43).

9. Applicant's constitution and by-laws state:

The purpose of this organization is to create, motivate further, and conduct activities and functions, to further and facilitate pastimes and enjoyment. To develop programs for the general assistance, education and welfare of Senior Citizens, and to carry out related functions in order to accomplish this goal (Department's Group Exhibit 1 at 5).

10. An affidavit submitted by the applicant stated:

2. Membership in our group is open to any individual age 55 years or older, or the spouse of an eligible member.

3. Membership is open to the individuals referred to in Paragraph 2 of this Affidavit, regardless of income or ability to pay.
4. No dues are assessed to members.
5. One of our programs is to provide meals for those who are homebound and/or unable to cook for themselves. Meals are provided at the Center and through home-delivery. Meals are provided to all who need and apply, and the meals are paid for only through voluntary donations. No fees are charged for meals or delivery of meals.
6. We are not limited in the number of people we may serve.
7. It is, and has been, our policy to provide services to all who need and apply, with no obstacles placed in their way.
8. Our organization has no capital, capital stock, or shareholders.
9. Our organization earns no profits or dividends from its activities.
10. Our funding is derived mainly from public and private charities, such as donations and fundraisers.
11. All of the monies contributed or raised are held by our organization for purposes expressed in our Constitution and Bylaws, and in our application for not-for-profit status and Title #5.
12. Our kitchen is leased to the Nutrition Site of the coal City Senior Citizens Council in order that they may prepare meals to be distributed through our organization.
13. The primary use of our property is for the purposes stated in our application for Title #5, and the purposes expressed in our Constitution and Bylaws. Such uses include our meal program and free blood pressure screenings, and other programs for the education and general welfare of senior citizens.
14. Our group receives no donations from the Senior Citizens Council (Department's Group Exhibit 5 at 2-3).

11. Applicant revised its Constitution and By-Laws on November 14, 1994 to state its purpose as:

The Southeastern Grundy County Senior Citizens Multipurpose Center's purpose is to provide recreation for the elderly citizens of Gardner and the surrounding area. Services are to be

provided to any individual meeting the age requirements of 55 years of age or older regardless of income or ability to pay (Department's Group Exhibit 5 at 4).

12. Applicant holds blood pressure clinics at the building. Applicant also participated in an influenza and pneumonia immunization program during the taxable year in question (Transcript (Tr.) 11).

13. Applicant provides several services to senior citizens who reside in Grundy County and the surrounding areas including transportation for those persons without means of transportation for grocery shopping trips or other trips when necessary (Tr. 20-21).

14. Applicant also makes available meals at noon where people come and eat free if they do not have the money to pay (Tr. 19).

15. Applicant also delivers noon meals five days a week and provides frozen meals for Saturday and Sunday noon meals (Tr. 20).

16. Applicant cooks the meals on the premises and the people deliver from there (Tr. 50).

17. Applicant charges a fee for the meals at home program based upon what the recipient can afford (Tr. 51).

18. Applicant also provides educational and informative discussions for senior citizens such as the sheriff speaking to the group regarding harassing telephone calls (Tr. 24).

19. Applicant's only fundraiser is a bazaar where applicant's members make and donate items for sale (Tr. 25).

CONCLUSIONS OF LAW: Article IX, 6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

The statutes of Illinois have provisions for property tax exemptions. In particular, 35 ILCS 205/19.7 (1992 State Bar Edition), (1991 Illinois

Revised Statutes, Chapter 120, Paragraph 500.7), exempts certain property from taxation in part as follows:

All property of institutions of public charity, all property of beneficent and charitable organizations, whether incorporated in this or any other state of the United States, all property of old people's homes and facilities for the developmentally disabled, ...when such property is actually and exclusively used for such charitable or beneficent purposes, and not leased or otherwise used with a view to profit;...All old people's homes or homes for the aged or facilities for the developmentally disabled...shall qualify for the exemption stated herein if upon making an application for such exemption, the applicant provides affirmative evidence that such home or facility...is an exempt organization pursuant to paragraph (3) of Section 501(c) of the Internal Revenue Code,...and...the bylaws of the home or facility...provide for a waiver or reduction of any entrance fee, assignment of assets or fee for services based upon the individual's inability to pay,...

In the case of Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149 (1968), the Illinois Supreme Court laid down six guidelines to be used in determining whether or not an organization is charitable. Those six guidelines are as follows:

- (1) The benefits derived are for an indefinite number of persons;
- (2) The organization has no capital, capital stock or shareholders, and does not profit from the enterprise;
- (3) Funds are derived mainly from private and public charity, and are held in trust for the objectives and purposes expressed in its charter;
- (4) Charity is dispensed to all who need and apply for it;
- (5) No obstacles are placed in the way of those seeking the benefits; and
- (6) The primary use of the property is for charitable purposes.

Based upon the testimony and evidence submitted by the applicant, I find that the applicant is a charitable organization and used the parcel herein question for charitable use. I therefore recommend that Grundy County parcel index number 12-04-453-015 be exempt from property tax for the 1993 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge

March 24, 1995